



POLICE DEPARTMENT

January 8, 2015

MEMORANDUM FOR: Police Commissioner

Re: Police Officer James Olson
Tax Registry No. 946078
45 Precinct
Disciplinary Case No. 2012-7486

The above-named member of the Department appeared before me on October 8, 2014 charged with the following:

1. Said Police Officer James Olson, while on-duty and assigned to the 45 Precinct, on or about December 5, 2010, did fail and neglect to follow the Directed Accident Response Program procedures, to wit: said Police Officer did fail to notify the Communications Section dispatcher when towing services were needed, as required.

P.G. 217-09, Page 2, Paragraph 3 DIRECTED ACCIDENT RESPONSE
PROGRAM VEHICLE ACCIDENTS

2. Said Police Officer James Olson, while on-duty and assigned to the 45 Precinct, on or about December 5, 2010, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer did fail and neglect to transmit a proper final disposition to the radio dispatcher, as required.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT - PROHIBITED
CONDUCT

P.G. 202-23, Page 1 Paragraph 7 – RADIO MOTOR PATROL RECORDER
DUTIES AND RESPONSIBILITIES

3. Said Police Officer James Olson, while on-duty and assigned to the 45 Precinct, on or about December 5, 2010, did fail and neglect to maintain said Police Officer's Activity Log (PD 112-145), to wit: said Police Officer did enter an improper final disposition for a disabled vehicle.

P.G. 217-09, Page 4, Additional Data – DIRECTED ACCIDENT RESPONSE
PROGRAM – VEHICLE ACCIDENTS

P.G. 212-08, Page 1 ACTIVITY LOGS – COMMAND OPERATIONS

4. Said Police Officer James Olson, while on-duty and assigned to the 45 Precinct, on or about December 5, 2010, did allow an improper tow truck to tow a vehicle.

P.G. 217-09, Page 2, Paragraph 6 – DIRECTED ACCIDENT RESPONSE
PROGRAM VEHICLE ACCIDENTS

5. Said Police Officer James Olson, while on-duty and assigned to the 45 Precinct, on or about December 5, 2010, did fail to prepare a Tow Truck Violation Report (PD 666-151) for an improper tow truck present on the scene to tow a vehicle.

P.G. 217-09, Page 3, Paragraph 10 DIRECTED ACCIDENT RESPONSE
PROGRAM VEHICLE ACCIDENTS

P.G. 209-34, Page 3, Paragraph 2 TOW TRUCK ENFORCEMENT/
COMMON SUMMONSABLE OFFENSES

The Department was represented by Jessica Brenes, Esq., Department Advocate's Office, and Respondent was represented by Craig R. Hayes, Esq.

Respondent, through his counsel, entered a plea of guilty and testified in mitigation of the penalty. A stenographic transcript of the mitigation hearing record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent recalled that on December 5, 2010, he was on duty, in uniform, assigned to the 45 Precinct, partnered with Police Officer Elvis Rodriguez. When he and Rodriguez responded to the scene of a motor vehicle accident in their marked radio

Motor Patrol car (RMP), they observed that a tow truck owned by Company A was present at the accident scene. Company A is not an authorized tow company under the Directed Accident Response Program (DARP) accident tow program.

Respondent acknowledged that he violated DARP procedures by failing to notify the radio dispatcher that a disabled vehicle at the accident scene needed to be towed from the scene; that he allowed Company A to tow this vehicle from the accident scene which was improper because it is not a DARP-authorized tow company; that he failed to prepare a Tow Truck Violation Report (PD 666-151) regarding the Company A tow truck which was improperly present on the scene to tow a vehicle; that he did not transmit a proper final disposition to the dispatcher; and that the final disposition code he entered in his Activity Log was an improper final disposition code for a disabled vehicle.

Respondent explained that the reason he did not notify the radio dispatcher that a vehicle at the accident scene needed to be towed was because based on prior experience it generally took about 30 minutes for a DARP-authorized tow truck to respond to an accident scene and, since this accident had occurred on a service road of the Hutchinson River Parkway (the Parkway) near the Whitestone Bridge on a Sunday afternoon, the accident was causing the heavy traffic to back up on the Parkway. Respondent further explained that it had been a busy day and that he and his partner had a radio dispatch "job" on hold.

Based on the these considerations, and since the Company A tow truck was already present at the accident scene when he and his partner arrived at the scene, he allowed this non-DARP-authorized tow company to tow a damaged car from the scene.

On cross-examination, Respondent testified that he has no present recollection as to whether he spoke to the operator of the Company A tow truck or what type of radio dispatch “job” he and his partner had on hold, only that they wanted to leave the accident scene as soon as possible to get to this next “job.” Respondent acknowledged that the final disposition code that he transmitted to the dispatcher and that he entered in his Activity Log was “99T4” which was an improper final disposition code for a disabled vehicle.

PENALTY

In order to determine an appropriate penalty, Respondent’s service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on January 7, 2008. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. Respondent has no prior formal disciplinary record.

The undisputed fact that Respondent entered on the Police Accident Report (PAR) that Company A had towed a damaged car from the scene shows that he had no intent to cover up his action of allowing a non-DARP-authorized tow company to tow a car from the scene.

The Assistant Department Advocate (the Advocate) recommended that Respondent forfeit 30 vacation days as a penalty. The Advocate noted that 30 day penalties have been imposed where police officers who had no prior formal disciplinary records have pleaded guilty to having violated DARP procedures on a single occasion. See, e.g., *Case No. 2010-1582* (Jan. 22, 2013), where an eight-year officer who had no

prior formal disciplinary record forfeited 30 vacation days as a penalty for failing to follow to DARP procedures; and *Case No. 2010-2375* (Jan. 22, 2013), where a six-year officer who had no prior disciplinary history forfeited 30 vacation days for failing to follow to DARP procedures.

However, penalties of less than 30 vacation days have been imposed in three cases where a police officer who had no prior formal disciplinary record has pleaded guilty to violating DARP procedures and engaging in additional related misconduct on a single occasion.

In *Case No. 2010-2222* (Feb. 1, 2013), a five-year police officer who had no prior disciplinary history forfeited ten vacation days as a penalty after pleading guilty to failing to follow to DARP procedures by allowing a non-DARP tow truck to remove a vehicle from an accident scene, failing to give proper radio disposition to the Communications Section, and failing to make proper Activity Log entries.

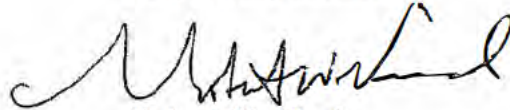
In *Case No. 2012-7800* (Oct. 7, 2013), a seven-year police officer who had no prior disciplinary record forfeited 25 vacation days after pleading guilty to failing to follow DARP procedures by contacting a tow truck service for a vehicle in need of a tow instead of notifying the Dispatcher and requesting a DARP-authorized tow truck. The officer also pleaded guilty to having improperly steered a tow truck operator to a motorist whose vehicle was disabled.

Most recently, in *Case No. 2011-5834* (June 13, 2014), the Police Commissioner disapproved a penalty recommendation of the loss of 15 vacation days and directed that a penalty consisting of the loss of ten vacation days be imposed on a nine-year police officer with no disciplinary record who pleaded guilty to DARP violations and additional

related misconduct. In that case, the officer not only allowed a non-authorized tow truck operator to remove a vehicle, failed to enter the name of the tow truck company on a PAR and failed to make pertinent Activity log entries, the officer also failed to prepare a PAR.

Therefore, it is recommended that Respondent forfeit 20 vacation days as a penalty.

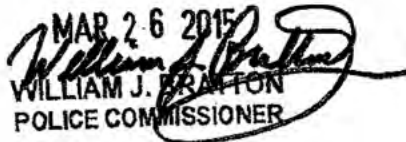
Respectfully submitted,



Robert W. Vinal

Assistant Deputy Commissioner Trials

APPROVED

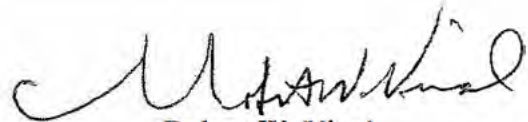
MAR 26 2015

WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner - Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER JAMES OLSON
TAX REGISTRY NO. 946078
DISCIPLINARY CASE NO. 2012-7486

Respondent received an overall rating of 4.0 on his 2013 performance evaluation, 3.5 on his 2012 evaluation, and 3.5 on his 2011 evaluation. He has no medals. [REDACTED]
[REDACTED] He has no monitoring records and no formal disciplinary record.

For your consideration.



Robert W. Vinal
Assistant Deputy Commissioner -- Trials